

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

KELLY ROBERTS,	:	APPEAL NO. C-250256
Plaintiff-Appellant,	:	TRIAL NO. A-2500309
vs.	:	
OMRI LEVI,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellee.	:	

NESTOR, Judge.

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Pro se plaintiff-appellant Kelly Roberts appeals the trial court's grant of summary judgment to defendant-appellee Omri Levi. This dispute stems from a residential lease between tenant Roberts and landlord Cincy Investment II. Levi, the named defendant-appellee, is the managing member of Cincy Investment II. Critically, the original complaint named Levi himself as the landlord, rather than Cincy Investment II.

Levi moved for summary judgment on February 25, 2025. Levi argued that because he was not the named landlord in the lease, there was no contract between him and Roberts to support a breach-of-contract claim.

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Roberts failed to respond to Levi’s motion for summary judgment. The trial court granted summary judgment in Levi’s favor on April 17, 2025.¹

In one assignment of error, Roberts asserts that the trial court erred by granting summary judgment in Levi’s favor without giving her an opportunity to respond or present additional evidence. On May 7, 2025, Roberts filed a motion with this court to supplement the record with additional evidence and add Cincy Investment II as a party. This court denied that motion on June 4, 2025.

Civ.R. 6 governs response time in civil actions. Under that rule, “[r]esponses to a motion for summary judgment may be served within twenty-eight days after service of the motion.” Civ.R. 6(C)(1). Civ.R. 6(D) extends that timeframe by three days when the party receives service of the motion for summary judgment via mail.

The certificate of service accompanying Levi’s motion for summary judgment indicates that a copy of the motion was sent to Roberts via mail on February 25, 2025. Thus, under the Ohio Civil Rules, Roberts had until March 29, 2025 to respond. The trial court granted Levi’s motion for summary judgment on April 17, 2025, 51 days after Levi filed the motion. Therefore, the trial court’s grant of summary judgment was not premature, as Roberts had the full time allotted by the Civil Rules to file a response.

Roberts further argues that she could not respond because did not receive proper service (and therefore, notice) of Levi’s motion for summary judgment. Civ.R. 5 governs service of pleadings. Under Civ.R. 5(B), service may be made by “mailing [the document] to the person’s last known address . . . in which event service is

¹ The trial court’s original order incorrectly stated that it was granting summary judgment in favor of plaintiff, instead of defendant. The trial court filed an amended entry correcting this error on April 30, 2025.

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complete upon mailing[.]” Civ.R. 5 also requires that the served document be “accompanied by a completed proof of service which shall state the date and manner of service[.]” Where a party complies with these rules, there is a presumption of proper service. *Stansberry v. Theetge*, 2025-Ohio-4650, ¶ 9 (1st Dist.) (citing cases). The opposing party then may rebut the presumption with evidence that service was not proper. *Id.*

Here, Levi attached a certificate of service, signed by his attorney, to his motion for summary judgment. The certificate indicated that the motion was served on Roberts via mail, to the address that Roberts had provided in her original complaint. Thus, there is a presumption of proper service. Roberts has not provided any evidence to overcome this presumption.

Therefore, summary judgment was proper here. “If the non-moving party fails to respond or to support its response with appropriate summary judgment evidence, the trial court may grant summary judgment.” *Fincher v. State Farm Mut. Auto. Ins. Co.*, 2025-Ohio-1752, ¶ 20 (1st Dist.), citing *McCoy v. Usuni*, 2009-Ohio-3095, ¶ 10 (1st Dist.), citing Civ.R. 56.

Accordingly, we overrule Roberts’s assignment of error and affirm the judgment of the trial court.


The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

KINSLEY, P.J., and MOORE, J., concur.

To the clerk:

Enter upon the journal of the court on 11/14/2025 per order of the court.

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By:  _____
Administrative Judge